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AMCONSUL SHEHYANG USHIESION GENEVA 1071 Date: 04/26/94 OTAGT YEERSAMENA

Case 10, 9000972

ALT TAIPER 3787 AMCONSUL ENFRORU POUCH

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DEPARTMENT PASS ELECTRONICALLY TO USTR FOR HASSEY

E. O. 12356: N/A

TAGS: ETRO, CH SUBJECT: AUSTR MASSEY'S VISIT TO BEIJING: TRANSPARENCY OF CHINA'S TRADE SYSTEM

- 1. THE TRANSPARENCY OF CHINA'S TRACE SYSTEM IS ONE AREA THAT WE EXPECT AUSTH MASSEY WILL RAISE DURING HIS BUZZE ENT NO SELLISG. DUR THOUGHTS ON THIS 185UE ARE AS FOLLOWS.
- 2. LACK OF TRANSPARENCY IS ONE OF THE BIGGEST PROBLEMS FACING US EXPORTERS IN CHIMA. THIS PROBLEM EXISTS AT ALL LEVELS OF GOVERNMENT AND EXTENDS TO DEALINGS WITH FOREIGN TRADE ENTERPRISES OTE) AS WELL. CHINESE OFFICIALS WAVE TOLD US THAT PROBULGATION LAST YEAR OF AN ADMINISTRATIVE PROCEDURES LAW, WHICH PERMITS GOVERNMENT OFFICIALS TO BE SUED, WILL RESULT IN GREATER TRANSPARENCY BECAUSE OFFICIALS WILL BE VULNERABLE TO BUITS BASED ON ACTIONS THEY TOOK PURSUANT TO UMPUBLICIZES REGULATIONS. MOWEVER, WE MAVE NOT NOTED TAMY INCREASE IN TRANSPARENCY IN RECENT MONTHS.
- 3. IN ACCITION TO LACK OF TRANSPARENCY FOR EXISTING LAWS AND REGULATIONS, THE LAW/REGULATION MAKING PROCESS IN MOST CASES ALSO REMAINS OPAQUE TO US BUSINESS AND ROVERHMENT REPRESENTATIVES. THE FOLLOWING ARE SPECIFIC EXAMPLES WHERE LACK OF TRANSPARENCY IS A PARTICULAR PROBLEM:
- 4. TRADE REFORM: IN 1988, CHINA ADOPTED AN EXTENSIVE PACKAGE OF TRADE REFORMS. THESE REFORMS ALTERED THE RELATIONSHIP BETWEEN THE CENTRAL GOVERNMENT AND THE

PROVINCES. FIE'S RIGHTS AND AGSPONSIBILITIES WERE EXTENSIVELY MODIFIED. IN ALL, INCHIT-THREE SEPARATE REFORMS WERE ADOPTED. THESE REFORMS HAVE REVER BEEN PERLISHED. THIS IS ONLY A SMALL PART OF THE BODY OF

BETTIN 84569 80 OF 87 1489322 FOREIGN TRADE REGULATIONS TO MINICH WE HAVE NO ACCESS. THE CENTRAL GOVERNMENT ISSUES A STEADY STREAM OF DIRECTIVES TO SUBORDINATE GOVERNMENTAL UNITS AND FEE'S THAT AFFECT WHAT CHINA CAN IMPORT AND BY WHOM. THESE DIRECTIVES USUALLY REMAIN HEIBU BIOT FOR RELEASE TO

- 5. THE FOREIGN BRADE PLAN: EVERY FALL, MEIJING CONDUCTS AN ANNUAL TRADE CONFERENCE THAT DETERMINES MORE THAN HALF OF WHAT CHINA WILL, IMPORT THE FOLLOWING YEAR. FOR A VIDE BARGE OF PRODUCTS, THE PLAN SETS ANNUAL IMPORT QUOTAS. IF PLANNERS DETERMINE THAT CHINESE BOYESTIC PRODUCTION IS SUFFICIENT, AN IMPORT QUOTA WILL BE SET AT ZERO. THE IMPORT PLAN IS A VERY CLOSELY MELD BOCUMENT. BEILING REFUSES TO REVEAL ITS CONTENTS EVEN AFTER THE FACT.
- 6. MAJOR PROJECT INFORMATION: THE ANNUAL AND FIVE-YEAR PLANS ALSO DETERMINE A LARGE FORTION OF CHINA'S FIXED INVESTMENT PROJECTS. INFORMATION REGARDING THESE PROJECTS IS OFTEN UNAVAILABLE TO US FIRMS. IMPORTS RECUIRED FOR THESE PROJECTS ARE SELDON TENDERED FOR BIDS. INSTEAD, THE CHINESE FIE'S REGOTIATE DIRECTLY WITH SELECTED SUPPLIERS FOR THE REQUIRED COULPHENT, Q VE MANE NO EVIDENCE THAT US FIRMS ARE SYSTEMATICALLY DISCRIMINATED AGAINST IN THIS PROCESS, BUT IT IS A FACT OF LIFE THAT THE JAPANESE ARE PETTER AT OPERATING IN

THIS OPAQUE ENVIRONMENT THAN AMERICANS.

- 7. TEXTILE TRANSSRIPHENTS: THE CHINESE CLAIM TO HAVE ISSUED NEW REGULATIONS AIRED AT CONTROLLING THIS PROBLEM. WE HAVE REQUESTED A COPY OF THESE REGULATIONS, TO FAR WITH NO SUCCESS.
- L. PAY GAPS: RUHORS HAVE BEEN AROUND FOR OVER A YEAR THAT MINIMUNIMAXIMUM CAPS ON CHINESE EMPLOYEE SALARIES MAYE BEEN ESTABLISHED AND THAT AN INTERNAL USE BOCUMENT TO THES EFFECT HAD BEEN ISSUED. VE HAD UNOFFICIAL CONFIRMATION OF THIS IN SHANGHAI LAST YEAR, AND BEILING CITY AUTHORITIES RECENTLY INFORMED JY MANAGERS THAT THE CAPS DO IN FACT EXIST. A TROROUGH ACCOUNT OF THE

RESTRICTIONS AND A COST OF THE REGULATION, HOWEVER, REMAIN UNAVAILABLE.

1. INVESTMENT PRIORITY AND APPROVAL GUIDELINES: O - HAVE ENGLIN FOR SOME TIME THAT THE CHINES GOVERNMENT HAS A VERY DETAILED LIST OF THE KINDS OF INVESTMENTS THAT IT WILL APPROVE. OTHER THAN DISCUSSING IN GENERAL TERMS WHAT IT LIKES ONIGH TECH, EXPORT-ORIENTED, INFRASTRUCTURE) AND DOES NOT LIKE C'HON-PRODUCTIVE' INVESTMENTS, ENTERPRISES TARGETING THE COMESTIC MARKET). THE AUTHOPETIES HAVE NOT BEEN VILLING TO GO INTO GREATER BETAIL ABOUT ITS PREFERENCES, WHICH GOVERN THE APPROVAL -PROCESS, NOR PROVIDE COPIES OF THE RELEVANT DETAILED ... REGULATIONS.

10. TALKING POINTS

# CHIRA'S TRADE SYSTEM IS AMONG THE WORLD'S LEAST TRANSPARENT. WE BELIEVE THIS IS A MAJOR REASON FOR THE -LOY LEVEL OF US EXPORTS TO CHINA.

# WE LACK BASIC INFORMATION TO DETERMINE THE TRADE BARRIERS WE FACE IN CHINA. HOST OF CHINA'S TRADE LAW AND REGULACIONS REMAIN HEIBU.

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- A THE ANNUAL TRADE PLAN HAS NEVER BEEN RELEASED, EVEN AFTER THE FACT. THIS PLAN DETERMINES MOST OF CRIRA'S IMPORTS. VITNOUT ACCESS T THIS INFORMATION VEHAL BIO VAY OF MUDUING UNETHER CHINA IS GIVING US PRODUCTS FAIR ACCESS TO THE CHINA MARKET.
- # US EXPORTERS FREQUENCY COMPLAIN THAT CHINA'S IMPORT SUBSTITUTION BULES ARE A MAJOR PROTECTIONIST BARRIER. THESE RULES GAVE NEVER BEEN PURLICLY RELEASED. THEY ARE SUBJECT TO FREQUENT CHANGE WITHOUT HOTIFICATION.
- ## OS FIRMS ALSO FIND IT DIFFICULT TO OBTAIN
  ADEQUATE INFORMATION ABOUT MAJOR INVESTMENT PROJECTS IN
  CHINA. THE JAPANESE HAVE DEVELOPED A NETWORK OF
  RELATIONSHIPS WITH CHINESE IMPORTERS THAT WORKS TO
  THE BISADVANIAGE OF U.S. FIRMS, LILLEY